

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

HAAS TCM, INC.,

Petitioner,

CASE NO. 06-CV-50863

-vs-

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

CHEMICO SYSTEMS, INC.,

DONALD A. SCHEER
UNITED STATES MAGISTRATE JUDGE

Respondent.

**ORDER ACCEPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE CONFIRMING ARBITRATION AWARD**

Before the Court are Respondent Chemico Systems' November 2, 2006 Objections to the Magistrate Judge's October 23, 2006 Report and Recommendation. (Docket No. 10). Petitioner Chemico Systems filed a Response to Respondent's Objections on November 8, 2006. (Docket No. 11). For the following reasons, the Court ACCEPTS the Report and Recommendation of the Magistrate Judge.

I. BACKGROUND

Respondent only disputes about the Magistrate Judge's Report and Recommendation was the arbitrator's calculation of the interest on the award.

The relevant facts of the underlying case that gave rise to the arbitration proceedings were recounted by the Magistrate Judge. (R&R, p. 2-4). On January 3, 2006, the parties entered into an Arbitration Agreement in which all of their disputes related to the Memorandum of Understanding ("MOU") would be resolved by way of arbitration. An arbitrator was selected by mutual agreement of the parties, and the parties were provided the opportunity to submit pre-

hearing briefs. The arbitrator held a hearing on June 29 and June 30, 2006, giving the parties an opportunity to present their respective cases. On September 8, 2006, the arbitrator awarded Petitioner \$879,924.01, plus an interest rate of \$137.59 per day for each day after September 8, 2006. Petitioner filed a Petition to Confirm Arbitration Award on September 15, 2006. Respondent did not file a response to that petition. The Court referred Petitioner's motion to the Magistrate Judge. The Magistrate Judge issued a Report and Recommendation on October 23, 2006, recommending the granting of Petitioner's petition.

II. ANALYSIS

Respondent only objects the to arbitrator's award of a \$137.59 daily interest rate after September 8, 2006. Respondent does not take issue with the fact that it has to pay interest on the award, only the fact that the interest rate is fixed, regardless of whether Respondent satisfies a substantial portion of the judgment.

Petitioner argues that Respondent had an opportunity to brief this issue in front of the arbitrator, did not ask the arbitrator to reconsider this portion of the judgment, and failed to file any response to its Petition. Finally, and most importantly, Petitioner points out that Respondent's position assumes that under the arbitration award it can pay the judgment over time. Petitioner asserts that if the judgment is not fully satisfied, Petitioner intends to commence execution proceedings. However, the arbitration award does not explicitly specify whether Respondent is obligated to satisfy the judgment in its entirety in relation to the daily interest rate.

Since Respondent never filed a response to Petitioner's petition, the Magistrate Judge was not able to consider its arguments. Under Local Rule 72.1(d)(1), a party objecting to a Report and Recommendation must "specify the part of the order, proposed findings,

recommendations, or report to which the party objects” and “state the basis for objection.” Since Respondent failed to raise its arguments concerning the daily interest rate calculation before the Magistrate Judge, Respondent is, in reality, objecting to Petitioner’s petition, and not any portion of the Magistrate Judge’s Report and Recommendation. Therefore, this Court cannot now consider these arguments.

III. CONCLUSION

For the foregoing reasons, the Court **ACCEPTS** the Report and Recommendation of the Magistrate Judge.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: November 20, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on November 20, 2006.

s/Denise Goodine
Case Manager